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February 28, 2023

**VIA E-MAIL**

Honorable Elizabeth A. Wolford  
United States District Judge  
100 State Street  
Rochester, New York 14614  
Email: [wolford@nywd.uscourts.gov](mailto:wolford@nywd.uscourts.gov)

Re: Mary Van Brunt-Piehler v. Absolute Software, Inc., Absolute Software Corporation, Geoff Haydon, Thomas Kenny and Todd Awtry  
16 Civ. 6313 (EAW) (MWP)

Dear Judge Wolford,

We are writing in connection the motion pending before Your Honor to exclude Defendants' Trial Exhibits 627-635. (Dkt. 277). Exhibits 628-635 are rosters of employees for Absolute Software Corporation (ABS Corp.) and Absolute Software, Inc. (ABS Inc.) as of July 1 for the years 2013 through 2016. Exhibit 627 is a chart based on the rosters depicting the number of employees in various classifications. Defendants previously informed the Court that these exhibits had been provided to Plaintiff during discovery in May 2018. In addition, pursuant to the Court's Order on January 13, 2023, Defendants provided Plaintiff with the underlying data from which these exhibits were created.

It has just come to Defendants' attention that the ABS Corp. roster for 2015 (DX 634) inadvertently omitted one person. James Carlton was employed as an Account Manager in the Sales department from June 8, 2015 until September 12, 2015 (*i.e.*, a four-month period). His date of birth is March 31, 1985, which means he was 30 years old in 2015. This omission came to light when Absolute's Executive Vice President of Human Relations, Robert Booker, undertook an exhaustive review of the information on the rosters in preparation for his trial testimony. He has confirmed to us that there are no other discrepancies. A copy of a corrected DX 634 will be provided, and now includes Mr. Carlton. As a result of the addition of Mr. Carlton to the 2015 ABS Corp. roster, Defendants have also revised the chart set forth on DX 627, as well as additional charts in DX 693 to reflect the accurate total number of employees of ABS Corp. and ABS Inc., the total number of sales employees in the two companies, and the total number of employees in the two companies who worked in the departments that reported to Defendant Thomas Kenny (sales, channel, consumer and marketing).



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Defendants do not consider the inadvertent omission of a single employee to constitute grounds for excluding the exhibits, but Defendants recognize the importance of correcting the record and providing the Court with this additional information.

Respectfully,

Mark S. Sullivan

cc: J. Nelson Thomas, Esq. (via ECF)  
Jonathan W. Ferris, Esq. (via ECF)